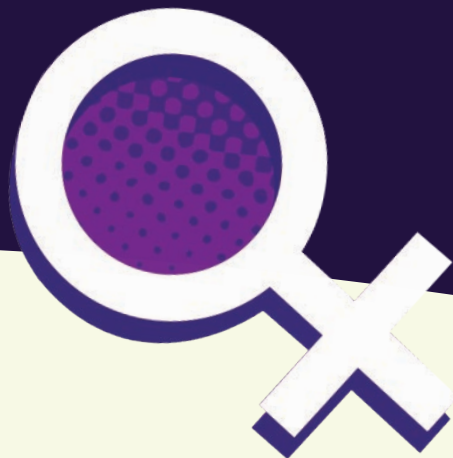


ASSERT WOMEN'S RIGHTS IN NEPAL



Human Rights Situation of Women in Nepal

The Nepal's Comprehensive Peace Agreement (2006) has lead to various commitments to respect and maintain civil, political, economic, social and cultural rights, including ending discrimination and pursuing accountability for human rights violations. Nepal is a signatory of various International Human Rights Conventions such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on Economic Social and Cultural Rights (ICESCR), the International Convention on Civil and Political Rights (ICCPR), the Convention on the Right of the Child (CRC), the Convention on the Rights of Persons with Disability (CRPD). As a signatory state, Nepal has made some progress in recognizing the rights of women. The enactment of Domestic Violence Bill, the decrease in the Maternal Mortality rate, the legalization of abortion (with conditionality), and the creation of a Unit within the PM office to address GBV, are some progressive steps recently taken by the government of Nepal. However, Nepal has made little progress in ending impunity. The human rights situation of women and human rights defenders continues to be a major cause of concern, as they are still marginalized, non recognized, oppressed, abused, excluded and stigmatized on the basis of caste, class, sexual orientation, ethnicity, gender identity, ability and nature of work. Given the current marginalization of women's issues, it is important to devote specific attention to women's rights at each stage of the UPR process: before, during and after the review.



**WOMEN'S RIGHTS ARE
HUMAN RIGHTS**

“We urge the Human Rights Council to draw the attention of the Government of Nepal to the following issues which directly affect the lives of women in Nepal,”

1. DISCRIMINATION

Rampant discrimination based on class, creed, race, ethnicity, caste, geographical origin, gender identity, religion, marital status and political belief is widespread all over the country. More than 67 existing laws provide discriminatory provisions against women. Discrimination took place also on the basis of socio-cultural norms and values, often involving harmful practices¹. Women are also denied citizenship rights.

REQUIRED ACTIONS FROM THE GOVERNMENT

- Enact Law to criminalize all forms of discrimination².
- Create appropriate mechanism to ensure the effective implementation of the provisions of CEDAW.
- Special preference measures should be ensured to women belonging to indigenous and ethnic minorities, to

the Dalit and Badi community, and to prevent discrimination on the basis of sexual orientation and religion.

- Consider the de facto discrimination against women with disabilities and develop appropriate mechanisms in the field of education, health, and housing.
- Citizenship rights should be ensured to all women in spite of their marital status as per the equality.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What measures has been taken by the government to criminalize all forms of discrimination and to ensure the effective implementation of the provisions of CEDAW?
2. Which special preference measures have been enforced to prevent discrimination against women on the basis of ethnic belonging, caste, sexual orientation, and religion?

Case 1. DENIAL OF ACCESS TO JUSTICE

Murti Devi's husband used to beat her up regularly. He ultimately beat her to death. Her husband went into hiding, and no one helped her family to file a case against him. It came to light that the villagers themselves had helped the murderer to escape, and had not allowed the case to proceed. The case appears to be mysterious as Murti Devi was a victim for a long time, but no state aid has been able to reach her.

2. VIOLENCE AGAINST WOMEN

Women of Nepal face violation in many cases. There is an alarming number of rape cases, dowry related violence and murder, domestic violence and sexual abuse. About 16% of the deaths of women in their reproductive age occur from suicide³. The culture of silence on VAW is due to the absence of a support mechanism and to the slow judiciary process to get justice in case of VAW. These shortcomings make women more vulnerable.

Case 2. VIOLENCE AS A RESULT OF HARMFUL SOCIO-CULTURAL PRACTICES

Bimala Bhatta's only fault was that she didn't bring enough dowry to the family into which she married. She was from the Mahendranagar municipality, which is the district headquarters of Kanchanpur district, with police and legal system at the service of citizens. But in the case of Bimala, it was not of any use. Her husband systematically killed her...locking her up in a room for six months... where he beat her up everyday and then finally killed her.

REQUIRED ACTIONS FROM THE GOVERNMENT

- Take immediate action, with the due diligence, to end all forms of violence against women, including harmful socio-cultural practices.
- Enact a comprehensive law on VAW to address all forms of violence against women and to enforce gender equality legislation.
- Access to Justice: Develop a witness and victim protection mechanism in the country, which deals with the threat of re-victimization/secondary victimization.
- Continue to establish (operate) with the civil society, safe houses in all 75 districts of Nepal to give a prompt and adequate response for women victims of violence and torture, in harmony with human right guidelines.
- Immediately implement the Supreme Court Decision on Fast Track Court⁴ to address issues related to violence against women and strengthen the role

of National Human Rights Commission and Institutions.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What measures have been taken by the State, to end all forms of violence and harmful socio cultural practices against women, to ensure the violation against women bill and to provide reparation to the victims? What steps will the state take to address sexual violence and rape as a significant cause of violation against women?
2. How has the government worked to implement legal provision making child marriage a criminal act, and to ensure mechanisms to implement the existing law against child marriage effectively?

Case 3. TORTURE, TORTURE AND TORTURE

Ram Bade of Kavre has been continuously torturing his wife, Jamuna since she gave birth to their second daughter. She has been forced to live alone, away from the main family home. The height of torture came with Ram trying to hammer a nail into her head while she was working at their family shop. She had to get six stitches on her forehead; he had previously poured a bucket of boiling water on her, severely scolding her. She was hospitalized for 21 days. Jamuna is struggling to keep herself alive and away from the torture. She had not received any justice from the court, and has been forced to live in hiding.

3. TORTURE RELATED CRIME

Women are subjected to torture at their home and workplace, in public transportation and anywhere else. There

are number of women living with PTSD syndrome⁵ in the community, due to torture suffered during the people's war. These cases still remain unaddressed.

REQUIRED ACTIONS FROM THE GOVERNMENT

- Ensure legislation in place to criminalize torture and to provide reparation to the victim.
- Create a mechanism to extend counseling and other needed support immediately to the women living with PTSD syndrome and integrate counseling support mechanisms into the health service system.
- Accede to the Statute of ICC (Rome Statute) as per the directives of the Parliament. Ratify the optional protocol to CAT convention.
- Amend the 2007 existing domestic violence law, according to the guidelines given by the Supreme Court and include domestic violence within the definition of torture.

We would like to request to consider addressing the following questions to the Nepalese government:

1. How and when will the government formulate policies according to the directives of the Supreme Court on: the establishment of a Fast Track Court, the amendment of existing domestic violation bill?

Case 4. DENIAL OF SEXUAL RIGHT

Ridhi Raj Tripathi of Nuwakot, used to beat his daughter, sexually molest her, and had threatened to kill both her and her mother, if she told anyone about it. According to a witness, the victim had resided in her friend's home after her father raped her just three days before her Grade 9 exams.

forms of sexual violence, the existence of the child marriage system, and high rates of HIV among married women⁶ are some of the key problems.

REQUIRED ACTIONS FORM THE GOVERNMENT

- Enact law to address sexual right of every woman according to human right principles and commitment made during ICPD and Beijing conferences.
- Implement legal provision making child marriage a criminal act and ensure mechanisms to implement existing law against child marriage effectively.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What step will the government take to address the right to bodily integrity and the sexual rights of women, including women with disabilities, according to human right principles and commitments made during the ICPD⁷ and the Beijing conferences?

5. HIGH MORBIDITY OF CHRONIC DISEASES OF WOMEN IN NEPAL

Government of Nepal has made little

4. SEXUAL RIGHT

Nepal suffers from increasing sexual violence against women/ LGBTIs and sex workers. High number of rape and other

progress with regard to ensuring right to health. There are high numbers of Uterine Prolapsed, Pelvic inflammatory diseases and malnutrition among women. Increasing number of obstetric fistula has also been reported. No research has been done to find out the cases of morbidity among women, and access of HIV positive women to treatment is also limited.

REQUIRED ACTIONS FROM THE GOVERNMENT

- **Recognize the special needs** of women from marginalized groups, and ensure that the general health services are improved and made accessible to everyone.
- Enact adequate **provision to meet special needs** of women suffering from chronic morbidity.
- Immediately enact law to ensure the right to health of every citizen as per the constitutional recognition of right to health.
- Carry out a **comprehensive research** to find out morbidity status among women and its underlying causes.
- Ensure the rights of **Women Living with HIV/AIDS and ensure universal access of HIV positive women to treatment.**

We would like to request to consider addressing the following questions to the Nepalese government:

1. Given the risks to life and looking at the number of women suffering with chronic morbidity problems such as fistula and uterine prolapsed because

of the failure of the government to address their health needs. What measures are being taken by the government, to provide necessary resources (physical facilities and human resources) to recognize the special needs of women within the marginalized groups and women living with HIV/AIDS, What measures are in place to ensure affordable, acceptable and safe health services (taking into

Case 5. DENIAL OF RIGHT TO HEALTH

Mrs. Dolma Semmu (name disguised), 35, is a married housewife from Sankhuwasabha. She has a small family comprising of a daughter (8 years), her husband and herself. Her two children had died earlier. Economically they are very poor and survive by working for others. Mrs Semmu suffered from fistula due to prolonged labor, lasting for 2 days, during birth of her third child. The situation complicated to an extent that she now cannot mobilize her left leg properly. Worse, she also has a second degree of uterine prolapsed. Her husband was supportive during initial couple of months of her fistula. But later, he started threatening that he would remarry another lady. He started getting uncooperative in his household chores. Even though he was partially deaf and a simple man, he would torture her per words of his brother and mother. To make the ends meet in the family, her eight year old daughter now goes to the jungle to collect 'Niuro Saag'(vegetable) and sell them in the market. She arrived at the Ghopa fistula Camp with lots of expectations. But due to her other underlying physical problems like high blood-pressure and diabetes, the doctors could not operate her for fistula. Depression and a sense of insecurity have gripped her.

account the existing power dynamics between men and women)?

2. When will the Government enact law to ensure the constitutional recognition on right to health?

6. RIGHT TO EMPLOYMENT

There is rampant discrimination in the employment sector (informal sector including entertainment sector) and in distribution of the opportunities for the employment. There is stigmatization of women working in small hotels and in the entertainment sector. There is increasing number of women without employment. Sexual harassment is witnessed in the work place and there are inadequate standards of occupational safety and health. Continuous violations of the rights of migrant women workers in destination countries (employed as domestic workers, as salons helpers, in restaurants, and as masseurs) still remain unaddressed.

REQUIRED ACTIONS FROM THE GOVERNMENT

- **Enact and enforce a comprehensive employment non-discrimination Act.**
- **Immediately enact law as per the constitutional right of all citizens to the right of the employment.**
- **Ensure the access to employment for all women** with appropriate measures of occupational safety and health, especially for women.
- **Enforce the 2008 Sexual Harassment Bill** both for formal and informal sectors;
- **Ratify the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**
- **Create special mechanism**

Case 6. DENIAL OF RIGHT TO EMPLOYMENT

Nisha comes from a Dalit family. She was married very young and was deprived of basic education due to a severe financial crisis in her family. Her husband is an alcoholic rickshaw driver. He used to beat her up every day. They have a son together.

Unable to bear the torture she left her husband's house and came to live with her parents. Due to further financial difficulties, she started washing dishes in an old lady's home. There, the lady suggested her to go abroad to earn money. She came in contact with a broker who told her that she could go abroad and work despite not being literate.

She had no money even to make a passport, which was provided by the broker who also bore all the related expenses. She was then taken to Delhi along with two other girls, where they were put up in a hotel. After four nights she was taken to Lebanon where a man had come to pick her up from the airport. She had to do household chores everyday and was required to indulge in sexual activity with him. She started crying and pleading the man to let her go back to Nepal. She was taken to an office where three other men beat her up. She met a Nepali woman at the office who helped her to contact the police. The police helped her to return to Nepal. The survivor is now in the safe house of WOREC Nepal.

to increase employment opportunities.

- Recognize women's work in the informal sector, and enact legal provisions to safeguard women's labor rights.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What action has been taken to initiate complaint and hearing mechanisms for migrant workers and what steps have been taken to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families? What are the mechanisms adopted by Government to ensure the right to work of migrant women workers, addressing their gender specific vulnerability?
2. When will the Government enact law to ensure the constitutional right to employment of every citizen?

7. VIOLATION OF THE RIGHT TO DEFEND

Women Human Rights Defenders (hereinafter WHRDS) working for issues such as land right, sexual right, and working against bonded labor as well as caste based discrimination have especially been at high risk. They also face specific threats and harassment in their work.

REQUIRED ACTIONS FROM THE GOVERNMENT

- Ensures special protection measures for protecting the rights of HRDs especially WHRDs, LGBTI, indigenous

minorities; differently abled, dalits and marginalized defenders, to exercise their right to defend without threats, intimidation or harassment in line with the UN Declaration on Human Rights Defenders.

Case 7. DENIAL OF THE RIGHT TO DEFEND

Uma Singh (25 years) was a Radio journalist of Today FM at Janakpur, and a member of WHRD Network. On 11 January, 2008 at around 7:45 PM, around 15 armed people of unidentified group entered her residence and attacked her with sharp weapons. Her entire body was disfigured and left to die. She was taken to the district hospital in serious condition. Later, she died on her way to the hospital in Kathmandu.

She was a prominent journalist and a WHRD working on the issues of human rights and women's human rights, by condemning the violence against women including dowry-related ones. Her tool of advocacy was the radio, from where she raised the issue of Violence against Women in the community and spoke about it openly with defiance. She was displaced from the Siraha district after being affected by the conflict and resettled in the Dhanusha district. She was murdered for advocating on women rights issues. The NAWHRDs had been demanding the government to guarantee the security of WHRDS.

This case illustrates the situation of the Women Human Rights Defenders (WHRD). The condition of WHRDs fighting for injustice towards women and creating support mechanisms to ensure access to justice, also faces threats of all forms such as Murder, Attacks against personhood and reputation, threats (such as death threats, warning, psychological harassment, attacks and intimidation of office staff and family members).

- Ensure **constitutional recognition** of the right to defend human rights.
- **Address impunity** by ensuring **accountability** for past and present human rights violations ;
- Implement **the Supreme Court decisions**⁸ to recognize the special needs of WHRDS⁹.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What measures have been taken to recognize and protect the work of WHRDs and to create a mechanism to ensure their right to defend?

8. PROTRACTED PEACE PROCESS

Women are still waiting for truth, justice and reparation for the crimes perpetrated against them and their family during the armed conflict. The widespread culture of impunity and the criminalization of politics along with the politicization of crime are affecting women's life and dignity.

separate special mechanism to investigate on sexual violence suffered by women during the conflict, including women involved in both armies.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What measures will the government take to establish a high level commission to investigate sexual violations against women engaged in security forces and female combatants during the time of conflict? When will the Government introduce a comprehensive institutional reform programme to prevent the reoccurrence of such crimes?
2. What are the measures taken by the Government to address the plea of families of disappeared people and what measures have been adopted to ensure the reparation mechanisms for women, including female combatants subjected to violence during conflict/post conflict?

9. VIOLATIONS AGAINST WOMEN IN SQUATTER COMMUNITY AND LANDLESS PEOPLE

Increasing evictions and encroachment of land have been taking place. This has caused displacement and increased violence against women among *Mukta kamaiya*¹⁰, *haliyas*¹¹ and other landless community, as well as among women living in squatter community.

REQUIRED ACTIONS FROM THE GOVERNMENT

- **Enact land reform policy** and programs to protect tenancy right of

landless people and to ensure women's right to land, while distributing land citizenship and ensure adequate budget allocation to provide rehabilitation to landless people.

Case 8. PROTRACTED PEACE PROCESS

The army used to come frequently in my home and ask me where my husband was. I would answer that I didn't know as that was the truth. It was a long time since I had been informed of his whereabouts. They again came to my home one day and asked me to go with them. On reaching the barrack, they again began to ask me the same question. When my answer did not change, they began to growl like tigers. They abused me and I became unconscious...oh the words that they used, oh what they all did! When I regained consciousness, my state was near to death. My jewelry had fallen to the ground. When they were abusing me they even threatened to insert their penis in my mouth.

-A survivor of rape done by the army

Case 9. UNRESOLVED ISSUE OF HALIYAS

Kali Devi Parki, 45years, is a widow and also physically disabled, is a member of Haliya Mukti Samuha and a member of Dalit network. She shared that she is called in all the meetings and programs by different organizations. They ask her to speak about herself, and hoping that she will get some help she even shares her story, but everything come to end with the end of the program. She recalls that it was better when they were working as a haliya (working for other as a bondage labour), at least they got something to eat in return. Now, they do not have that source as well.

- Adopt measures to ensure women's **right to housing**.
- Ensure **proper rehabilitation of mukta kamaiyas, haliya** and other landless communities by allocating appropriate budget.
- Immediately stop the practice of eviction without giving alternatives to people residing in slums.

We would like to request to consider addressing the following questions to the Nepalese government:

1. What are the resettlement plans of the Government for the women who are suffering from different forms of violence, resulting from the government's evictions of slum dwellers under the name of beautification of the city or prevention of illegal encroachment of forest land?
2. What strategies have been taken by the government to ensure women's right to adequate housing and proper rehabilitation of bonded laborers after freeing the *mukta kamaiyas, haliya*, and other landless community by allocating appropriate budget and implement affirmative policies for food security, food right, and food sovereignty to the marginalized communities, with special provision for women? When will the government enact a comprehensive land reform policy to ensure the right to land of the?

10. SOCIAL SECURITY

Violence against women is rampant in Nepal. There is an increasing number of abandoned women and of women living with HIV/AIDS. High rates of geriatrics

and women with disabilities are living without family and/or social support.

REQUIRED ACTIONS FROM THE GOVERNMENT

- Ensure the right to **social security of every citizen. Adopt special measures to cater the need of retired, unemployed, sick and old age people; and of the people unable to work**
- Allocate **appropriate budget for social security.**

We would like to request to consider

Case 10. DENIAL OF SOCIAL SECURITY

Bhajan Bhul (23 years) is a widow with 8-year old son. Her major source of livelihood is labour work (breaking stones) from which she earns Rs.150 per day. She can sustain herself and her son for 15 days from her farm production. Her husband died 5 year ago. He had gone to India in search of work, and when he returned back with fever. She took him to the traditional healers, consumed the herbs from the jungle, and she did everything to cure him...she even sold the crop land, which was the only property. Later when she took him to the hospital then she came to know that he was infected with HIV. She tested herself and her son as well. The result was positive.

She shared that due to health problem, as she cannot work for a long hours. She expressed that “we can get to eat only if we work My son gets ill frequently and I cannot leave him alone. My worry is that if I am unable to work then my child will remain hungry.”

addressing the following question to the Nepalese government:

1. What steps have been taken to create special mechanisms to ensure rights to education of children and of marginalized communities, including female child, the right to social security of every citizen and to adopt special measures to cater the need in cases of retirement, unemployment, sickness and old age and incapacity to work?

Case 11. DENIAL OF THE RIGHT TO FOOD

Pabitra Dahal, a widow aged 35 years, of Sunsari district worked in Noodles Factory, where her husband also worked. Sudden death of her husband brought a disastrous change in her life and she suffered from economic hardship. On 18 Bhadra 2067, Ram Chandra Das, a friend of her husband, entered in her room in drunken state. When, the villagers came to know about his coming in the room at midnight, they verbally assaulted her using vulgar words. They also questioned her in her chastity without supporting her. On the very night, the police arrested her rejecting to register her complain, and instead accused her and insulted her. Moreover, she was also forbidden from her office questioning in her chastity. Not finding any alternative she went to the office of the Ministry of Labor but of no use, since all the evidences were against her. Now she including her children has hand to mouth problem. She did not get any food to eat and made to sleep in hunger for many days in a week. Sometimes she had to clean all the dishes of the hotel to get something to eat while sometimes she had to beg for the food. This was her situation but she neither got food to eat nor job and justice even after complaining in many possible places.

11. RIGHT TO FOOD

Nepal has been facing a severe food crisis. The effective enjoyment of the right to food remains a serious problem owing to unjust distribution of food, and lack of marginalized groups' access to productive resources such as crop land, forest and water. The rate of women suffering from malnutrition and starvation, cholera and other endemic in food scarce areas has been increasing.

REQUIRED ACTIONS FROM THE GOVERNMENT

- **Adopt and implement a strong development framework with affirmative policies** and fulfill the commitments to ensure food security, right to food and food sovereignty for the marginalized community with special provisions for women in special condition.
- Enact law to implement the constitutional guarantee on food sovereignty
- Develop and implement a comprehensive food policy to ensure the right to food of every citizen.

We would like to request to consider addressing the following question to the Nepalese government:

1. What strategies are being taken by the government to implement affirmative policies for food security, food right and food sovereignty to the marginalized community, with special provisions for women in special conditions?

REFERENCES

- ¹ Practices like Boksi, Kumari, Deuki, Chhaupadi and others.
- ² Article 2 of CEDAW AND ICESCR and Article 6 of CRPD.
- ³ The study by the Family Health Division (FHD) of the Department of Health Services in its report on “Maternal Mortality and Morbidity Study, 2008-09: Summary of Preliminary Findings” .
- ⁴ WOREC Nepal v. Government of Nepal writ no wo-0424
- ⁵ Post-traumatic stress disorder (PTSD) occurs after a distressing event, like torture, natural disasters, accidents, violence, or rape.
- ⁶ UNFPA, Report Card of HIV prevention for girls and young women of Nepal, available at, <http://www.unfpa.org/hiv/docs/report-cards/nepal.pdf>
- ⁷ International Conference on Population and Development (ICPD).
- ⁸ WOREC Nepal v. Government of Nepal, Writ no WO -0187 (2066/4/28).
- ⁹ Women Human Rights Defenders
- ¹⁰ Mukta Kamaiyas are the freed bonded laborers, free to live and work as they pleased.
- ¹¹ Haliyas are, the bonded labor slavery system.



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